

SUMMARY ANALYSIS OF AMENDED BILL

Author: Runner Analyst: Jahna Alvarado Bill Number: SB 640
 Related Bills: See Prior Analyses Telephone: 845-5683 Amended Date: May 12, 2011
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Employer Hiring Credit/Qualified Full Time Employees Who Have Received Unemployment Insurance Benefits For Not Less Than 6 Months Prior To Hiring

SUMMARY

This bill would provide a tax credit for a qualified taxpayer who employs qualified employees.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

SUMMARY OF AMENDMENTS

The May 12, 2011 amendments would do the following:

1. Define "qualified taxpayer" as one that, as of the last day of the preceding taxable year, employed 50 or fewer employees.
2. Establish a cut-off date for allowing the hiring credit that this bill would create, based on the Franchise Tax Board's (FTB) estimate of when \$50 million in this hiring credit would have been reported on timely-filed original returns.
3. Remove provisions in the bill that would repeal the hiring credit by its own terms on January 1 of the calendar year after the full calendar year in which California's average unemployment rate falls below 10 percent.

The May 12, 2011, amendments resolve one of the implementation considerations. For convenience, the remaining "Implementation Considerations," the "Technical Considerations" and "Policy Concerns" are provided below.

As a result of the May 12, 2011, amendments, the "This Bill," "Implementation Considerations," and "Economic Impact" sections have been revised. The remainder of the department's analysis of the bill as amended April 27, 2011, still applies.

Board Position:

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Asst. Legislative Director

Date

Patrice Gau-Johnson

05/24/11

ANALYSIS

THIS BILL

For taxable years beginning on or after January 1, 2011, this bill would allow a tax credit of a qualified amount for each qualified employee employed in a qualified job during the taxable year by a qualified taxpayer. The maximum aggregate qualified amount that could be allowed for any qualified employee would be \$6,000.

This bill would define the following terms:

- “Qualified amount” would be equal to the sum of \$500 per month for each qualified employee employed by the taxpayer in a qualified job, multiplied by the number of consecutive calendar months, not to exceed 12 consecutive months, that the taxpayer employs the qualified employee in a qualified job. For a qualified employee that worked at least two weeks for the taxpayer and earned a gross salary of at least \$750, the qualified amount would be reduced to \$250 per month for a two-week pay period; the 12 consecutive calendar month limitation may include two two-week pay periods.
- “Qualified employee” means any person who actively received unemployment insurance benefits for not less than six months immediately prior to the time he or she was first hired by the taxpayer for a qualified job.
- “Qualified job” means a non-seasonal, full-time employment position within the State of California that would qualify the employee for benefits under the Unemployment Insurance Code, excluding any benefits received under Unemployment Insurance Code section 1279.5,¹ and result in a minimum gross salary of \$1,500 in any month in which the taxpayer seeks to apply the credit.
- “Qualified Employer” means a taxpayer that as of the last day of the preceding taxable year employed a total of 50 or fewer employees.

This credit would be allowed in lieu of any other credit based on a qualified employee that would be otherwise allowed.

This bill would allow unused credits to be carried over for six years.

Because this bill fails to specify otherwise, the corporate credit would be eligible for assignment.

The credit would be cut off on the last day of the calendar quarter within which the FTB estimates it will have received timely filed original returns claiming credits under these sections that cumulatively total \$50 million for all taxable years.

The bill would require the FTB to periodically provide notice on its Internet web site with respect to the amount of credit under these sections claimed on timely filed original returns received by the FTB.

¹ Unemployment Insurance Code section 1279.5-defines unemployed and unemployment benefits.

IMPLEMENTATION CONSIDERATIONS

Department staff has identified the following implementation considerations for purposes of a high level discussion; additional concerns may be identified as the bill moves through the legislative process. In order for the FTB to implement this bill, clarification is necessary for the following issues.

This bill uses the undefined terms, “actively received unemployment insurance benefits,” “nonseasonal, full-time employment position,” and “unemployment insurance benefits.” The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this credit. For example, unemployment benefits paid by a jurisdiction outside of California could qualify an individual for purposes of this credit. If this is contrary to the author’s intention, this bill should be amended. The author may wish to consider the definition of “qualified full-time employee” contained in the existing new jobs tax credit.²

Because this bill would require an individual to have received unemployment insurance benefits for a specified period to qualify for the credit, an individual that had been unemployed for the specified period who was ineligible for unemployment insurance benefits would fail to qualify for the credit. If this is contrary to the author’s intention, this bill should be amended.

It is unclear whether the qualified amount of \$250 that would be allowed for two two-week pay periods is intended to address mid-month hiring and separations. Lack of clarity could lead to disputes with taxpayers and would complicate the administration of this credit. If it is the author’s intention that the \$250 qualified amount would be limited to the calendar months of a qualified employee’s hire date and, if applicable, the last date of a qualified employee’s employment, this bill should be amended.

Although this bill would establish the minimum requirements for being eligible for the \$250 qualified amount, it is silent on both the maximum number of hours employed during a month and the maximum gross monthly income for purposes of determining whether the qualified amount for the month would be \$250 or \$500. As a result, a qualified employee could be eligible for both the \$500 qualified amount and the \$250 qualified amount in the same month while still remaining subject to the \$6,000 maximum aggregate qualified credit amount. If the author intends that a qualified employee could only satisfy requirements for one of the two qualified amounts in any given month, this bill should be amended.

The FTB lacks the ability to verify the minimum duration of receipt of unemployment insurance benefits that this bill would require. Typically, credits involving areas for which the department lacks expertise are certified by another agency or agencies that possess the relevant expertise. For example, the agency responsible for paying the unemployment insurance benefits could serve as the certifying agency. For example, the Employment Development Department could serve as the certifying agency for individuals receiving benefits from the state of California. The certification language would specify the responsibilities of both the certifying agency and the taxpayer.

² Revenue and Taxation Code sections 17053.80(b)(2) and 23623(b)(2).

TECHNICAL CONSIDERATIONS

On page 2, lines 35 and 36, and page 5, lines 15 and 16, strikeout the phrase “in which a qualified taxpayer seeks to apply the credit authorized” and replace with the phrase “for which the credit is allowed” to provide clarity and consistency with recently enacted tax credit terminology.

FISCAL IMPACT

Department staff is unable to determine the costs to administer this bill until the implementation concerns have been resolved.

ECONOMIC IMPACT

Estimated Revenue Impact of SB 640 Credit for Employing Certain Unemployed Effective For Taxable Years Beginning On or After January 1, 2011 Enactment Assumed On or After June 30, 2011 (\$ in Millions)		
20011-12	2012-13	2013-14
-\$44	-\$18	-\$9.7

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

POLICY CONCERNS

Because this bill fails to specify otherwise, a taxpayer could claim the credit proposed by this bill and a deduction for the wages paid to a qualified employee. Generally, a credit is allowed in lieu of any deduction or credit already allowable in order to eliminate multiple tax benefits.

LEGISLATIVE STAFF CONTACT

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